

Appl. No. 10/677,399  
Filed: October 1, 2003  
Atty Dkt. HM-87423  
Rule 111 Amendment "A" in  
Response to 4/6/04 Office Action

Robert P. Swiatek, Patent Examiner  
Art Unit 3643  
Title: ELECTRIC FISH BARRIER FOR  
WATER INTAKES AT VARYING DEPTHS

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**REMARKS**

Currently pending are claims 27-47, all reciting a novel method for governing the motion of a fish in a body of water or an electronic barrier for practicing the method. The claimed method involves generating a *voltage gradient* in the body of water by creating a *first voltage potential* in a first array of vertically-oriented, adjacent electrode structures and creating a *second voltage potential, different than the first voltage potential*, in a second array of vertically oriented, adjacent electrode structures, spaced apart from the first array. Similarly, the claimed electronic barrier includes a first array of vertically oriented, adjacent electrode structures, a second array of vertically oriented, adjacent electrode structures, the second array spaced apart from the first array, and a voltage source for creating *a voltage potential between the first and second arrays*. To create the first and second voltage potentials, in any given array, the *adjacent electrodes must have the same charge*. See, for example, Figs. 5 and 6, as well as page 16, lines 13-15 and page 18, lines 23 and 24.

The Examiner objected to the disclosure, because on page 1, line 4, an application serial number should be inserted after "No." and because on page 12, line 6, the phrase - - taken along line 6-6 - - should be inserted after "reservoir." As can be seen by the above amendments to the specification, these changes have been made, so that these grounds for objection have been overcome.

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The Examiner rejected claims 1-21 under 35 U.S.C. 112, second paragraph on the ground that there was no antecedent for the phrases "said primary conductive members," and "said complementary conductive members" appearing in claim 1. As can be seen by the above amendments, claim 1 has been withdrawn and these phrases do not appear in any of the new claims, so that this ground for rejection has been obviated.

The Examiner rejected claims 1-6, 9-13, 15, 17, 18, 20, 22-24, and 26 under 35 U.S.C. 102(b) as being anticipated by Burkey. The Examiner rejected claims 7, 8, 16, 19, and 25 under U.S.C. 103 as obvious in light of the same reference. However, Burkey describes an electronic fish stop formed with three series of electrodes, where adjacent electrodes have opposite charges. See, for example, Figs. 1, 2, 6, 7, and 8, as well as page 2, lines 42-56, which teaches:

"A transformer 18 of any well known construction is employed and is connected to feed wire 19 and also has positive and negative connectors 20, 21, and 22 . . . The positive and negative conductors are 20, 21, and 22 are connected to every other electrode 6 of the three series as shown in Fig. 2 so that positive and negative electrodes are arranged adjacent to each other . . . ." (Emphasis added.)

Because positive and negative electrodes are located next to each other in each series, a voltage potential is not created between the first and second series, nor is a voltage

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gradient generated in a body of water in which the Burkey fish is deployed. Therefore, Burkey does not anticipate nor would it have made obvious any of applicant's pending claims.

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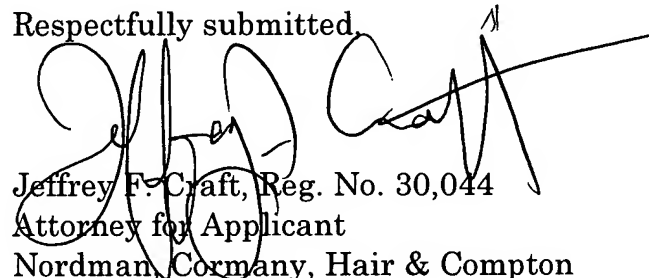
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**CONCLUSION**

In light of the foregoing amendments and remarks, it is believed that the application is in condition for allowance, so that a prompt and favorable action is earnestly solicited.

Respectfully submitted,



Jeffrey F. Craft, Reg. No. 30,044  
Attorney for Applicant  
Nordman, Cormany, Hair & Compton  
P.O. Box 9100  
Oxnard, CA 93031-9100  
(805) 988-8320 (telephone)  
(805) 988-7720 (facsimile)  
e-mail: [jcraft@nchc.com](mailto:jcraft@nchc.com)

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